

Spain

Section 1. Respect for the Integrity of the Person, Including Freedom from:

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

Police forces include the national police and the Civil Guard (both of which handle migration and border enforcement under the authority of the national Ministry of the Interior) as well as regional police under the authority of the Catalan and the Basque Country regional governments. The respective civilian authorities maintained effective control over all police forces and the Civil Guard, and the government generally has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest Procedures and Treatment of Detainees

The law provides that police may apprehend suspects for probable cause or with a warrant based on sufficient evidence as determined by a judge. With certain exceptions, police may not hold a suspect for more than 72 hours without a hearing. In certain rare instances involving acts of terrorism, the law allows authorities, with the authorization of a judge, to detain persons for up to five days prior to arraignment. These rights were respected. Authorities generally informed detainees promptly of the charges against them. The country has a functioning bail system, and the courts released defendants on bail unless they believed the defendants might flee or be a threat to public safety. If a potential criminal sentence is less than three years, the judge can decide to impose bail or release the accused on his own recognizance. If the potential sentence is more than three years, the judge must set bail. The law provides detainees the right to consult a lawyer of their choice. If the detainee is indigent, the government appoints legal counsel. There were at times delays of up to several hours between the time a detained person first requested a lawyer and the time the lawyer arrived at the place of detention.

In certain rare instances involving acts of terrorism, a judge may order incommunicado or solitary detention for the entire duration of police custody. The law stipulates that terrorism suspects held incommunicado have the right to an attorney and medical care, but it allows them neither to choose an attorney nor to see a physician of their choice. The court-appointed lawyer is present during police and judicial proceedings, but detainees do not have the right to confer in private with the lawyer. The government continued to conduct extensive video surveillance in detention facilities and interrogation rooms ostensibly to deter mistreatment or any violations of prisoner rights by police or guards.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: Persons arrested and detained are entitled to challenge in court the legal basis or arbitrary nature of their detention and to obtain prompt release and compensation if found to have

been unlawfully detained. They may also seek to appeal to the ECHR.